

## **§ 101.36**

grant leave to file briefs in such time as it shall specify. The Board then considers the evidence taken at the hearing and the hearing officer's analysis together with any briefs that may be filed and the oral argument, if any, and issues its determination or makes other disposition of the matter.

### **§ 101.36 Compliance with determination; further proceedings.**

After the issuance of determination by the Board, the Regional Director in the Region in which the proceeding arose communicates with the parties for the purpose of ascertaining their intentions in regard to compliance. Conferences may be held for the purpose of working out details. If satisfied that the parties are complying with the determination, the Regional Director dismisses the charge. If not satisfied that the parties are complying, the Regional Director issues a complaint and notice of hearing, charging violation of section 8(b)(4)(D) of the Act, and the proceeding follows the procedure outlined in §§101.8 to 101.15, inclusive. However, if the Board determines that employees represented by a charged union are entitled to perform the work in dispute, the Regional Director dismisses the charge against that union irrespective of whether the employer complies with the determination.

## **Subpart G—Procedure Under Section 10 (j) and (l) of the Act**

### **§ 101.37 Application for temporary relief or restraining orders.**

Whenever it is deemed advisable to seek temporary injunctive relief under section 10(j) or whenever it is determined that a complaint should issue alleging violation of section 8(b)(4) (A), (B), or (C), or section 8(e), or section 8(b)(7), or whenever it is appropriate to seek temporary injunctive relief for a violation of section 8(b)(4)(D), the officer or regional attorney to whom the matter has been referred will make application for appropriate temporary relief or restraining order in the district court of the United States within which the unfair labor practice is alleged to have occurred or within which the party sought to be enjoined resides or transacts business, except that such

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officer or regional attorney will not apply for injunctive relief under section 10(l) with respect to an alleged violation of section 8(b)(7) if a charge under section 8(a)(2) has been filed and, after preliminary investigation, there is reasonable cause to believe that such charge is true and a complaint should issue.

### **§ 101.38 Change of circumstances.**

Whenever a temporary injunction has been obtained pursuant to section 10(j) and thereafter the administrative law judge hearing the complaint, upon which the determination to seek such injunction was predicated, recommends dismissal of such complaint, in whole or in part, the officer or regional attorney handling the case for the Board suggests to the district court which issued the temporary injunction the possible change in circumstances arising out of the findings and recommendations of the administrative law judge.

## **Subpart H—Advisory Opinions and Declaratory Orders Regarding Board Jurisdiction**

### **§ 101.39 Initiation of advisory opinion case.**

(a) The question of whether the Board will assert jurisdiction over a labor dispute which is the subject of a proceeding in an agency or court of a State or territory is initiated by the filing of a petition with the Board. This petition may be filed only if:

(1) A proceeding is currently pending before such agency or court;

(2) The petitioner is the agency or court itself; and

(3) The relevant facts are undisputed or the agency or court has already made the relevant factual findings.

(b) The petition must be in writing and signed. It is filed with the Executive Secretary of the Board in Washington, DC. No particular form is required, but the petition must be properly captioned and must contain the allegations required by section 102.99 of the Board's Rules and Regulations. None of the information sought may relate to the merits of the dispute. The petition may be withdrawn at any time before the Board issues its advisory